

**APPLICANTS:**  
**Bernie & Carol Stokeling**

**REQUEST:** A variance to permit an addition within the required rear yard setback in the R3 District

**HEARING DATE:** January 9, 2008

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
**Case No. 5630**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Bernie Stokeling

**CO-APPLICANT:** Carol Stokeling

**LOCATION:** 407 Tanglewood Court – Joppatowne  
Tax Map: 69 / Grid: 1C / Parcel: 166 / Lot: 51  
First (1<sup>st</sup>) Election District

**ZONING:** R3 / Urban Residential

**REQUEST:** A variance, pursuant to Ordinance 6, Section 10.05, of the Harford County Code, to permit an addition within the required 40 foot rear yard setback (29 foot setback proposed), in the R3/CDP District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

Presenting the Applicants' case was Gus M. Mack, the contractor retained by the Applicants to construct the one-story, 17 foot by 12 foot addition to the rear of the Applicants' home. As the addition will encroach within the 40 foot required rear yard setback by 11 feet, this variance is requested.

Mr. Mack testified the addition will be constructed onto the living room and will expand the living room area. The house itself is located on an approximately 9,500 square foot lot in Joppatowne. The lot is improved by a two-story, framed dwelling, in which reside the Applicants and their three children. The property is also improved by a storage shed in the back yard. The Applicants have owned the property for about three years.

Mr. Mack explained that the proposed one-story addition will be built on a slab, as the house has no basement. The addition will match in construction and appearance the existing home.

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Mr. Mack explained that the home, when constructed, was located about 20 feet beyond the front yard building setback line. He has no explanation for why this was done. If the home had been set on the front yard building setback line, the requested variance would not be necessary.

Mr. Stokeling testified that no neighbor has expressed any opposition to him. The Applicants do not believe the request will adversely impact the neighbors or their neighborhood.

For the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune explained that a 40 foot rear yard setback is applicable to this case and, accordingly, an 11 foot variance is requested. Mr. McClune also explained that the house is, in fact, located approximately 20 feet beyond the front yard setback line, which is 20 feet more than necessary. If not for this unusual location of the house, the addition could have been built without the requested variance.

Mr. McClune stated that many other homes in the neighborhood have similar additions and have constructed those additions without a variance.

According to Mr. McClune, open space exists behind the subject property. No homes are located in that area, and accordingly the Department has recommended no additional screening.

The Department has accordingly recommended approval.

No testimony or evidence was given in opposition.

### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*“Variances.*

*A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

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- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants, desiring additional living space for their family, wish to construct a 17 foot by 12 foot addition to the rear of their home, and onto their existing living room. This roughly 200 square foot addition will be, according to their testimony, similar in appearance and design to other structures throughout the neighborhood, and will be constructed with a design and materials similar to that of the existing home. No neighbors appeared to oppose the request, and as the home backs up to open space there is, in fact, no resident to the rear of the home who would be impacted in any fashion by the addition.

The subject property is encumbered by a 40 foot rear yard setback. With the existence of the setback, an addition could only be 1 foot in depth which would, obviously, preclude not only the construction of this addition but any improvements to the rear of the house. The reason for the drastic impact of this rear yard setback is that the home itself is located 20 feet behind the front yard building lot. The witnesses did not know why the home was constructed as it was, although Mr. McClune believes that as the lot is on a curved portion of Tanglewood Court, the builder may have been attempting to take that curved frontage into account when locating the home as it did. However, not all homes are setback the same distance, and a review of the aerials and plat plan in the file show no apparent reason why the home could not have been located significantly forward.

Of course, if the home had been located at or close to the front yard lot line, the requested variance would not be necessary.

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It is accordingly found that the Applicants suffer an unusual feature of their property which prevents them from building an amenity which is similar to and typical of others in the community. This unusual feature is the odd placement of the home with respect to the front yard lot line which would not only prohibit the construction of this addition, but any attached improvement in the backyard of this property.

It is further found that the 12 foot deep addition will have no adverse impact on any adjoining property or the neighborhood and will, in fact, act to improve both the Applicants' property and the neighborhood. The relief requested is the minimum necessary to alleviate the hardship.

#### **CONCLUSION:**

Accordingly, it is recommended that the requested variance be approved, subject to the Applicants obtaining all necessary permits and inspections.

Date: January 23, 2008

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on FEBRUARY 21, 2008.**